1942

Department of Revenue

OFFICE Board of Rev

STATION Madras

Mis No. 699

685/42

Dated 12.3.42

Pages in the file 3 + 4

(SUBJECT.)

Smt (LA) - South Kanara Dt - Mangalore Tk + Town - Kasba Ba
Town 13/2 - Widening the road - Lr no 708/39, Sub Court &
Appeal - Unnecessary

R.O.C.B3-8649-41. South Kanara Collector's Office,

Mangalore, 7th February 1942.

From

M. Karamatullah, Esq., I.C.S.,

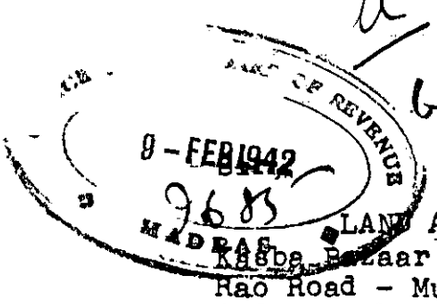
Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue and Irrigation,

M a d r a s.



LAND ACQUISITION - South Kanara - Mangalore Taluk and Town Kasba Bazaar village - T.S.No.13/2 - Widening the Karnad Sadashiva Rao Road - Municipal Council, Mangalore - L.A.C.Nos. 7 and 8 of - 1939 - Sub Court, South Kanara - Enhancement of compensation.

Plot T.S.No.13/2 of Kasba Bazaar village of Mangalore Town was acquired on behalf of the Municipal Council, Mangalore by the Revenue Divisional Officer, Mangalore, who was the Land Acquisition Officer. There were references to Court under Section 18 of the Land Acquisition Act and under Sections 18 and 48(3) of the Land Acquisition Act. The two references were disposed of by the Subordinate Judge, South Kanara in his L.A.C.Nos. 7/39 and 8/1939. L.A.C.No. 8/39 has been dismissed. In L.A.C. 7/39, compensation has been enhanced by Rs.1,013-12-11. The Municipal Council, Mangalore, has resolved that no appeal need be filed against the decision of the Subordinate Judge. The Government Pleader, Mangalore is also of opinion that no appeal need be filed. I agree with the view of the Municipal Council, Mangalore and the Government Pleader, Mangalore, and submit that it is not worthwhile to take up the matter in appeal. I enclose a printed copy of the judgment in L.A.C.7 and 8 of 1939 as well as certified copies of the decree relating to the two cases for the perusal of the Board and return. I also enclose a copy of Ref.No.A-126-42, dated 4-2-1942 from the Government Pleader, Mangalore.

For Collector.

Copy of letter Ref.No.A-126-42, dated 4-2-1942 from the

Government Pleader, Mangalore to the Collector of South Kanara.

Land Acquisition - Mangalore Taluk and Town - Kasba Bazaar village - T.S.No.13/2 - Widening of Karnad Sadashiva Rao Road -- Mangalore Municipal Council - L.A.C.Nos. 7 and 8 of 1939 - Sub Court of South Kanara.

Your Ref.B3-8649-41, dated 3-12-1941.

I am forwarding herewith the printed copies of the judgment and certified copies of the two decrees in L.A.C.Nos. 7 & 8 of 1939.

2. L.A.C.8/1939 has been dismissed. In L.A.C.7/39 compensation has been enhanced by Rs.1013-12-11.

3. The land value has been increased from Rs.5000/- to Rs.8000/- an acre, and the building value by Rs.170/- The claim before the Court was for Rs.20,000/- an acre

4. The reasons for awarding land value at Rs.8000/- an acre are given in para 11 of the judgment and are based on the previous ~~katt~~ order in L.A.C.Nos.14 to 17 of 1937 That order relating to Guligahithlu has not been appealed against by the Government. In the circumstances no appeal seems to be called for in the present case, remembering particularly that the claim for Rs.20000/- an acre has been rejected and only Rs.8000/Rs granted. The increase in the value of the building by Rs.170 does not by itself appear to be worth while appealing against

5. I request the total fee of Rs.232-9-0 in both the cases may be directed to be paid.

(True Copy)

For Collector.

In the Court of the Subordinate Judge of South Kanara.

Present:—Sri T. D. Ramaiya Pantulu, M. A., B. L.,

Subordinate Judge.

Thursday, the 27th day of November 1941.

LAND ACQUISITION CASES NOS. 7 AND 8 OF 1939.

Between:—

The Revenue Divisional Officer, Mangalore . . . *Petitioner (L. A. Officer).*

and

1. M. Shankarnarayana Rao (dead) . . . . . .
   Supplemental:—
2. M. Raghurama Rao . . . . . .
3. M. Deva Rao . . . } *Minors by guardian ad litem 2nd respondent.*
4. M. Devdas Rao . . . }

Respondents (Claimants).

These cases coming on for trial on Tuesday the 11th, Saturday the 15th and Tuesday the 18th days of November 1941, in the presence of Mr. M. K. Nambiyar, Government pleader for the petitioner and of Messrs M. J. Mallya and K. B. Shankar Rao, pleaders for respondents 2 to 4, and the 1st respondent having died pending these references and having stood over to this day for consideration, the Court made the following

Order.

1. These were heard together with the consent of parties. These are references under Section 18 of the Land Acquisition Act made by the Revenue Divisional and Land Acquisition Officer, Mangalore, in respect of the acquisition of T. S. No. 13/2 for widening the Karnad Sadasiva Rao Road (also called as Court Road) for the Mangalore Municipality.

2. The objections raised by the claimants are to the extent of the land acquired, to the compensation awarded, and also to the claim for damages on account of the withdrawal by the Government of a prior acquisition proceeding.

3. It will be convenient to deal with the question of extent of the land first. The claimants say that the extent is 10,890 sq. ft., while the Government found after measurement the area to be 10,332 sq. ft. The question is whether the claimants' contention could be accepted. Their contention is based upon certain prior documents. Exhibit D2 dated 15th December 1915 is a sale deed executed by one Parvathi Bai to Lobo for 35 cents in S. No. 13/1. On the 28th of January 1922 Lobo executed a sale deed Exhibit D3 to one M. Raghavendra Rao for Rs. 5,000 for 25 cents of property bought by him, retaining 10 cents himself. There is a plan attached to the sale deed Exhibit D3 which shows that the portion sold is to the west of the portion retained. Nine years later, on the 19th of March 1931, Raghavendra Rao sold what he bought under Exhibit D3 for Rs. 4000 to M. Shankarnarayana Rao the 1st claimant who died pending these cases. That sale deed is Exhibit D4. So far then as the documents are concerned, the case of the claimants that they are entitled to 25 cents appears to be supported.

4. But the question, however, is not what exactly they bought, but what was available for acquisition at the time of the notification. The Inspecting Tahsildar who was deputed to

measure and prepare the necessary sketch, has done so and the sketch prepared by him is Exhibit P8. It shows that in spite of the measurement of 25 cents in the documents, it was found on actual measurement that there was a deficiency in the area. If the claimants were really aggrieved by the action of the Tahsildar, they could have taken steps to get the property measured by some other competent surveyor, and have examined him as a witness. That, however, was not done. The deceased 1st claimant Shankarnarayana Rao who was the father of other claimants, was a practising lawyer of this place. He must have known perfectly well about the measurement taken by the Tahsildar. A wild and reckless allegation was made that before Shankarnarayana Rao could do anything, the position of the survey stones had been shifted by the Tahsildar. I must say that there is absolutely no ground for this allegation, much less any proof.

5. On the other hand, a comparison of the sketch of the Tahsildar, Exhibit P8, with the plan annexed to Exhibit D3 will show how the difference could have arisen. In Exhibit D3 the two southern lines are stated to measure 83 ft., and 126 ft. We find the same 83 ft., in Exhibit P8. As regards the other line measuring 126 ft., we find in Exhibit D3 that 66 ft., is the length of the line up to the limit bought by the claimants' predecessor-in-interest, while 60 ft., represents the length of the southern line of the portion retained by Lobo. If we turn to the present southern measurement, we find 64 ft., instead of 66 ft. On the other hand, on the northern side we have two lines measuring 59 and 33 ft., in the Tahsildar's sketch Exhibit P8, while in the plan annexed to Exhibit D3, we have 59 ft., and 32 ft. The other measurements tally. It will be seen, therefore, that the difference in the area, is mainly attributable to an encroachment by the eastern owner to a length of 2 ft., upon the property bought by the claimants. This encroachment does not altogether compensate for the encroachment that the claimants or their predecessors must have made along the northern boundary. In any case, if the claimants' contention about measurement is true, I have no doubt they would have taken immediate steps to get the property measured by a competent person and have examined him as a witness. There was no motive for the Tahsildar to short-measure the claimants' property. I find that the measurement is correct and that compensation can be awarded only on the basis of the Tahsildar's measurement.

6. The next point relates to the value of the house and out-houses. The house is a tiled storyed house with certain out-houses, a latrine, an unsteined well, a laterite stone wall along the road side, and a few trees. The house and the out-houses were valued by a Supervisor of the Public Works Department at Rs. 3,231 on the 13th October 1938. Out of that, a sum of Rs. 2,819 was the compensation for the main house. There was a complaint that the valuation was not made properly, and that certain items had been omitted by the Supervisor. Thereupon the Assistant Engineer who has been examined in this case, valued the omitted items and has filed his valuation. The Assistant Engineer (P. W. 1) stated in his evidence that the owner Shankarnarayana Rao was present at the time of his inspection, and that he valued all the items pointed out by Shankarnarayana Rao as having been omitted by the Supervisor The Supervisor's valuation is Exhibit P1. Exhibit P2 is the valuation as revised by the Assistant Engineer. The net result of the valuation was an addition of Rs. 134 as Exhibit P3. shows. The abstract of the estimate is filed as Exhibit P5. The P. W. D. Supervisor had not made any allowance for depreciation. The Assistant Engineer found the value as revised by him to be Rs. 3,200, and after allowing for depreciation at 2 per cent for a period of 18 years, he arrived at the value of Rs. 2,230 for the main building as in 1936. He added to that Rs. 600 the value of the two out-houses and latrine less 10 per cent depreciation on the value, and so arrived at the total figure of Rs. 2,830. This was on the 22nd September 1939. Though Shankarnarayana Rao himself said that the house was 40 years old in a statement he made before the Land Acquisition Officer, he appears to have told the Assistant Engineer that it was only 20 years old, and upon that basis the depreciation was worked. As regards the rate of depreciation, the Assistant Engineer based his estimate upon the usual formula prescribed

for them and also a Government order directing a 2 per cent depreciation subject to suitable modification in individual cases for buildings built of brick in mud and in which country-wood is used.

7. For the other side, the claimants have examined a retired District Board Engineer who valued the buildings and prepared the estimate Exhibit D1. He says that certain items in his estimate were not included in the Overseer's estimate. But that is not very material since all the omissions pointed out by Mr. Shankarnarayana Rao have been rectified and included in the revised estimate of the Assistant Engineer. D. W. 1 arrived at the valuation of Rs. 3,896—5—9 for the building and out-houses. He did not, however, follow the usual method adopted in such cases of making an estimate of the present worth of the building at the current rates of labour and materials and then deducting a proper amount for depreciation considering the age of the entire building or portions of the building. He says that he valued according to the rates prevailing in the years 1936 to 1938 less depreciation. For the local rates he depended upon his son who built some shops recently. It is said that his son has noted the local rates in some book kept by him, and that D. W. 1 took those rates as the basis, deducted from them what he considered was proper for depreciation and so arrived at the estimate for each item. I am of opinion that this method is faulty and D. W. 1 himself admitted that except for the house in question, he did not adopt this method for estimating the value of any other building during his career as an engineer. Apart from this, however in the absence of the book kept by his son, we are absolutely in the dark as to the local rates and their accuracy. Then again, there is another uncertain factor involved in the estimate since R. W. 1 appears to have adopted a different rate of depreciation for each item. This must have been more or less arbitrary. The valuation based on such a method cannot, in my opinion, be accepted to be correct.

8. But the Assistant Engineer's estimate requires some modification on one or two points. The P. W. D. Overseer had adopted a uniform rate for all timber work irrespective of the size. The estimate would differ according to the various sizes and the nature of the materials used. Then on another point also some modification would be necessary. For instance, admittedly there would be a difference in rate between the work done in laterite and lime mortar for the ground floor and the work done for the first floor. It will, therefore, be seen that neither the Assistant Engineer's valuation nor R. W. 1's valuation could be accepted *en bloc* without modification.

9. It will be necessary in this connection to refer to one other circumstance relating to the value of the property. Exhibit P9 is a sale list showing that the Kerala Club bought for Rs. 4.000 the house and compound acquired by the Government, less a strip of 1425 sq. ft., used by the Municipality for widening the road. The total area was 10,454 sq. ft., while the area sold to the Kerala Club with the buildings and trees thereon was 9,029 sq. ft. The result of the widening of the road is that the building is at present 6 feet from the widened road, while it was formerly 21 feet away. This sale was on the 31st November 1940 after the Municipality acquired the property. It is true the Municipality put up a granite revetment and compound wall along the present road side and also a flight of steps at a cost of about Rs. 400, before the property was put up for auction. The date of the notification for acquisition in this case is 7th March 1939. The building was no doubt old. It had some cracks in the walls. It fetched a price of Rs. 4,000 in November 1940. It appears to me that though this sale was after the date of the notification of acquisition, it might be taken into consideration in arriving at the valuation, though it does not really help the claimants.

10. Taking therefore all the circumstances into consideration, I should think it proper to add Rs. 170 to the value of Rs. 2,230 *plus* Rs. 600 fixed by the Assistant Engineer, and award Rs. 3,000 under this head.

11. It will be necessary next to consider the site value. The Land Acquisition Officer has estimated the value of the site at Rs. 5,000 an acre. The property is situate on what is called the Court Road. It is at a short distance from the Shedigudde on the one side and Hampankatta

junction on the other. Hampankatta junction is a pre-eminently business area. As we proceed from Hampankatta junction towards the Court Road, the commercial importance decreases. Admittedly the suit property is situate in a residential area, though it is of course within a short distance of the Court, temples, market and so on. The value therefore cannot be taken to be the same as that of the sites near Hampankatta junction or near the Guliga Hithlu area. With reference to the acquisition of certain sites in the Guliga Hithlu area, the question of the valuation of the present plot came up for consideration. Exhibit D11 is the judgment in L. A. C. Nos. 14 to 17 of 1937 of this Court. It will appear from paragraph 22 of the judgment that taking the value of the building in 1930 to be Rs. 2000, the value of the site should be taken at Rs. 8000 an acre. An increase of Rs. 1000 was made over the Rs. 8000 for the plots which were then under consideration since they were nearer the Hampankatta junction than the present plot. It appears to me to be reasonable in the circumstances, to take Rs. 8000 an acre to be the proper rate and assess compensation for the site at that rate.

12. One other point must be mentioned. The claimants asked for damages alleging that by reason of the Government withdrawing the previous acquisition for a portion of the present site, they have suffered damages and so, should be compensated. The withdrawal of the previous acquisition was at the instance of Shankarnarayana Rao who filed a petition under Section 49(1) for the acquisition of the entire property including the buildings, as otherwise, his building was in danger of falling down. The Government thereupon withdrew the previous acquisition, and the present acquisition for the entire property was started. There is no proof that the claimants have suffered any damage by reason of the withdrawal. It may be that for sometime the house was vacant; but that cannot necessarily be attributed to the withdrawal of the acquisition. I am therefore unable to grant any damages under this head to the claimants. This point is raised in L. A. C. No. 8 of 1939.

13. In the result, the compensation payable to the claimants will be as follows:—

	Rs.	As.	Ps.
Value of land 10,332 sq. ft. at Rs. 8000 an acre	1897	8	4
Value of the storyed house	2400	0	0
Value of out-houses and latrine	600	0	0
Well (unsteined)	40	0	0
Laterite stone wall	146	0	0
Trees	109	0	0
Total	5192	8	4
Add 15 per cent solatium on the above	778	14	0
Grand Total	5971	6	4
Deduct amount already awarded	4957	9	5
Balance payable	1013	12	11

The above sum of Rs. 1013—12—11 will be deposited by the Government within two months from this date, with interest at 6 per cent per annum from 10—10—1939 (date of taking possession) till date of deposit. The claimants will not be entitled to the damages they claimed in L. A. C. No. 8 of 1939. Each party will bear its costs in both the cases.

Dictated to shorthand-writer, and pronounced in open Court this the 27th day of November 1941.

(Signed) T. D. Ramaiya,
Subordinate Judge.

PETITIONER'S EXHIBITS.

P1.	13—10—1938.	Detailed measurement of valuation statement by the Supervisor of P. W. D.
P2.	14— 9—1939.	Detailed measurement of valuation statement of Supervisor and checked by the Sub-Divisional Officer, P. W. D.
P3.	Do.	Valuation of the detailed measurement.
P4.	Do.	Data of rates for valuation.
P5.	22— 9—1939.	Abstract of the valuation prepared by the Sub-Divisional Officer, P. W. D., North.
P6.	22— 9—1939.	Letter of the Sub-Divisional Officer, P. W. D., to the L. A. Officer.
P7.	16— 6—1930.	Copy of G. O. No. 2380 L. & M. regarding rates of depreciation to be allowed in valuing buildings.
P8.		Sketch of the site acquired.
P9.	31—11—1940.	Sale list prepared by the Municipal Supervisor while auctioning the plot acquired.
P10.	24— 7—1939.	Deposition of Mr. M. Shankarnaraina Rao, before the Revenue Divisional Officer, Mangalore.
P11.	1—10—1939.	Copy of award in L. A. C. No. 16 of 1938 on the file of the Revenue Divisional Officer, Mangalore.
P12.	7— 3—1939.	Notification under Section 4(1) of the Land Acquisition Act published in the Fort St. George Gazette.
P13.	17— 7—1939.	Petition filed by Mr. M. Shankarnarayana Rao before the Revenue Divisional Officer, Mangalore, for a revaluation of the building.
P14.	30— 9—1939.	Detailed valuation statement submitted by the Special Revenue Inspector.
P15.	5— 8—1938.	Deposition of M. Shankarnarayana Rao in L. A. C. No. 12 of 1937 of this Court.

RESPONDENTS' EXHIBITS.

D1.	28—12—1939.	Valuation statement and list of measurements prepared by R. W. 1.
D2.	15—12—1915.	Registered sale deed executed by Mrs. S. Parvati Bai to Mr. A. J. Lobo for Rs. 4,700.
D3.	28— 1—1922.	Registered sale deed by Mr. A. J. Lobo to M. Raghavendra Rao for Rs. 5,000.
D4.	19— 3—1931.	Registered sale deed by M. Raghavendra Rao to Mr. M. Shankarnarayana Rao for Rs. 4,000.
D5.	30— 3—1932.	Registered receipt passed by Mrs. S. Parvati Bai to Mr. M. Shankarnarayana Rao for balance of unpaid purchase money.
D6.	5— 6—1935.	Certified copy of decree in O. S. No. 405 of 1935 on the file of the District Munsif of Mangalore.
D7.	10—12—1934.	Registered rent bond executed by K. Shankar Rao and another to Mr. M. Shankarnarayana Rao.
D8.	23— 9—1938.	Half-yearly Municipal tax receipt relating to the acquired plot.
D9.	9— 7—1937.	Assessment receipt relating to the acquired plot.
D10.	26—10—1933.	Notice of demand for the half-yearly Municipal tax ending March 1934 issued by the Mangalore Municipality.
D11.	25—11—1940.	Certified copy of judgment in L. A. C. Nos. 14 to 17 of 1937 of this Court.
D12.	4— 3—1940.	Certified copy of list of bidders in the Guliga Hithlu auction held by the Mangalore Municipality.

GOVERNMENT OF MADRAS
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IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA

Present: Sri T. D. Ramaiya Pantulu, M.A., B.L.,
Subordinate Judge.

Thursday the 27th day of November, 1941.

Land Acquisition Case No. 7 of 1939.

(L.A.C.No.16 of 1938 on the file of the Revenue Divisional and Land Acquisition Officer, Mangalore)

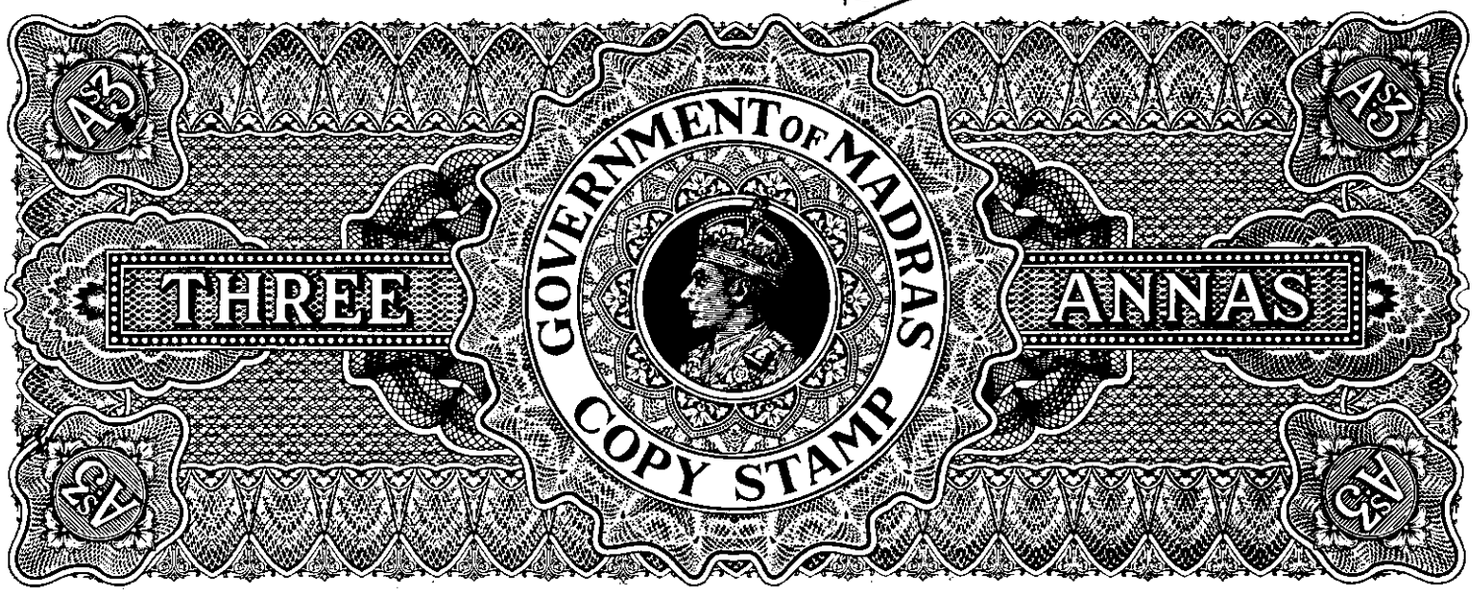
Between:

The Revenue Divisional Officer, Mangalore. Petitioner
(L.A. Officer)

a n d

1. M. Shankaranarayana Rao (since dead) /
supplemental:
2. M. Raghuram Rao)Sons of 1st respondent)Respondents
3. M. Deva Rao.)Nos. 3 and 4 are minors)(Claimants)
4. M. Devadas Rao)by guardian 2nd respondent)
All residing in Mangalore Town.)

This is a reference under Section 18 of the Land Acquisition Act, by the Revenue Divisional and Land Acquisition Officer, Mangalore who has acquired the plot T.S.No.13/2 with buildings and trees thereon, for the purpose of widening the Karnad Sadashiva Rao Road, and has awarded a sum of Rs.4957-9-5 as compensation. The Claimants object to the accuracy of the extent of Land acquired,



and the adequacy of the compensation awarded. Hence this reference.

Order: This case coming on for trial on Tuesday the 11th, Saturday the 15th and Tuesday the 18th days of November, 1941, after notice to the Collector and the claimants, and upon perusing the reference, the statement filed by the respondents, and the material papers in the case, and upon hearing the arguments of Mr. M. K. Nambiyar Government Pleader for the petitioner, and of Messrs. M. J. Mallya and K. B. Shankar Rao, pleaders for the respondents 2 to 4, and having stood over to this day for consideration, this court doth declare that Rs.1013-12-11 is liable to be paid to the claimants in addition to the compensation awarded by the L. A. Officer and it is hereby ordered that the said sum of Rs.1013-12-11 with interest at 6 per cent per annum from 10-10-1939 till date of deposit, be deposited by the Government into this Court within two months from this date and that each ... ...

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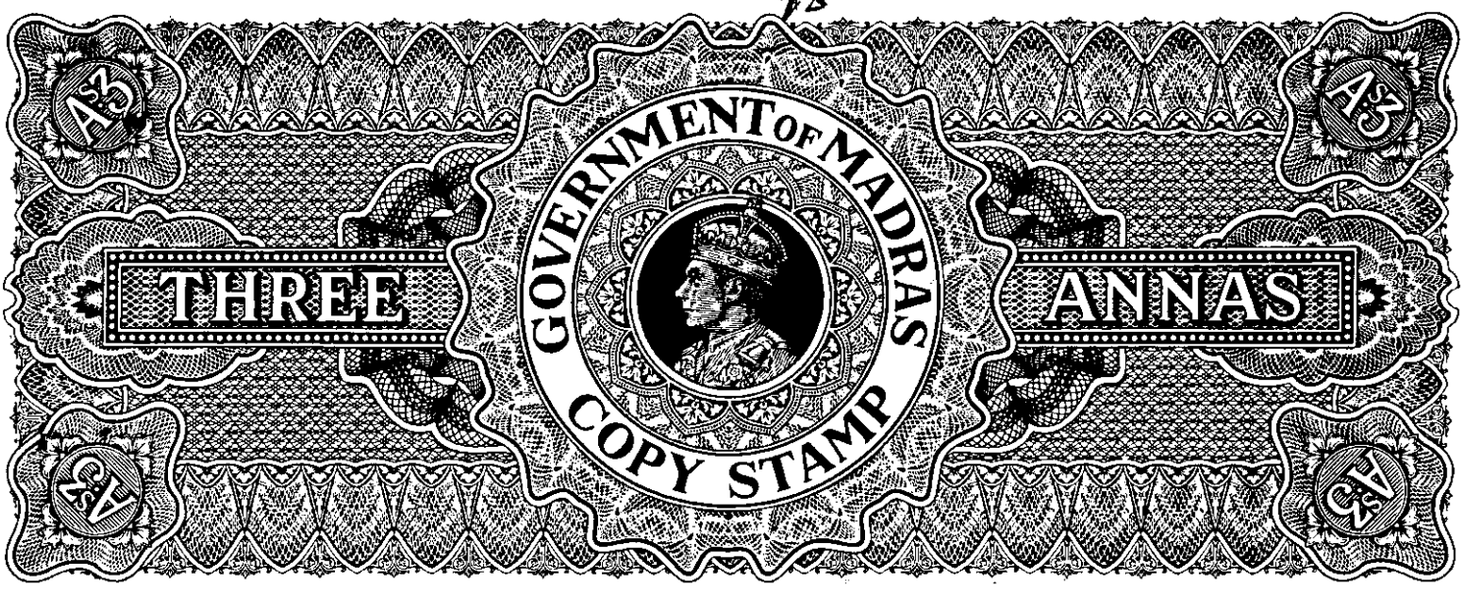


party do bear his own costs.

Memo of Costs.

	Petitioner Rs. A. P.	Respondents. Rs. A. P.
Stamp for Vakalat	0 0 0	1 0 0
Do Exhibits	0 0 0	1 4 0
Pleader's fee	207 9 0 (allowable)	100 0 0 (as certified)
T. A. for witnesses	0 0 0	10 8 0
Process fee	0 0 0	4 0 0
Stamp for petition	0 12 0	3 12 0
Process writing fee	0 0 0	0 7 6
	208 5 0	120 15 6

Valuation Rs.5189-0-10 being the excess claimed by the claimants in their statement.

Given under my hand and the seal of the Court this the 27th day of November, 1941.

Sd. T. D. Ramaiya,

Subordinate Judge.
Ild.A.P.

N.B. The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve as the record will be liable to be destroyed after three years from this date.

(True copy on 3 sheets)

162+3
5 12+3

Copied by
B.S.Rao.

Superintendent.
5/1/42

WS 3215-2

7714 by Sri M. K. Nambyar...

DIST JUDGE'S CO[illegible]
SOUTH KANARA

Application made 29. 11 1941
Stamp paper supplied 2 1 1942
Stamp paper delivered 3 1 1942
Copy ready 2 2 1942
Copy delivered 13 2 1942

Superintendent

29/11

Appeal to High Court.

GOVERNMENT OF MADRAS
COPY STAMP
THREE ANNAS

17

Of the court of the Subordinate Judge of South Kanara.

Present:- Sri. T. D. Ramanya Pantulu, M. A. B. L.

Subordinate Judge.

Thursday the 27th day of November 1941.

Land Acquisition Case No. 8 of 1939

(L. A. C. No. 16 of 1938 on the file of the Revenue Divisional and Land Acquisition officer, Mangalore.)

Between:-

The Revenue Divisional and Land Acquisition officer, Mangalore ... Petitioner (L.A. officer).

1. M. Shankaranarayana Rao. (Since dead).

Supplemental:-

2 M. Raghurama Rao
3. M. Deva Rao.
4. M. Devadas Rao. } Sons of 1st Respondent Nos. 3 and 4 are minors by guardian 2nd Respondent.

All residing in Mangalore Town. ... Respondents.

This is a reference under Sections 18 and 48(3) of the Land Acquisition officer and Revenue Divisional officer, Mangalore, who has dismissed the claim for damages made by the respondents, consequent on the withdrawal from acquisition of a portion of T. S. No. 13/2 in a previous L. A. C. No. 12/35 or his file, and the delay thereafter in launching L. A. C. No. 16/38 or his file for

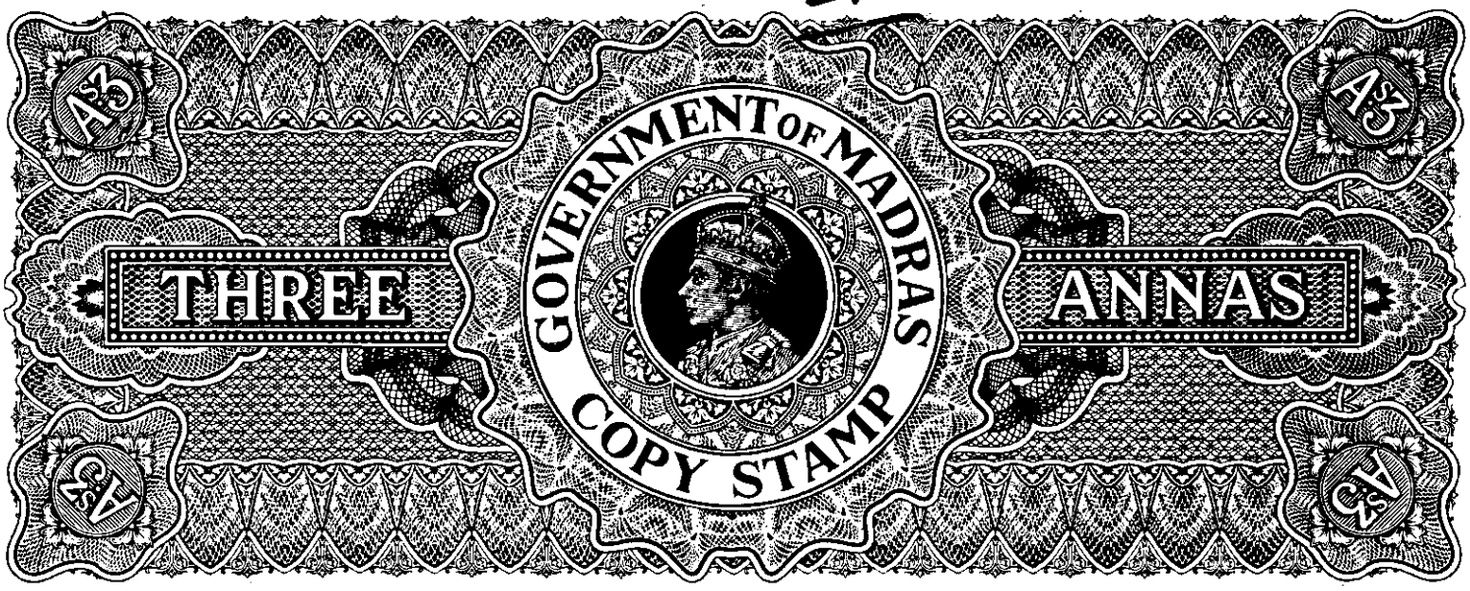
GOVERNMENT OF MADRAS
COPY STAMP
THREE ANNAS

the acquisition of the whole of T. S. No. 13/2 as per order of this court in L. A. C. No. 12 of 1937.

Order:— This case coming on for hearing along with connected L. A. C. No 7 of 1939, on Tuesday the 11th Saturday the 15th and Tuesday the 18 days of November 1941, after notice to the claimants and the Collector, and upon perusing the reference, the statement filed by the respondents, and the material papers in the case, and upon hearing the arguments of Mr. M. K. Nambyar Government Pleader for the Petitioner, and of Messrs. M. D. Mallya and K. B. Shankar Rao Pleaders for the respondents, 2 to 4, and the 1st respondent having died pending this case, and having stood over to this day for consideration, it is hereby ordered that this case be, and hereby is, dismissed; and that each party do bear his own costs.

Memo of costs

	Petitioner	Respondents
Stamp for vakalat		
	175	



Stamp for petition ..... 0—12—0

Pleader's fee (25—0—0 allowable) not certified

Total 25—0—0 1—12—0

Valuation Rs 293-6-6 being the amount claimed by respondents in their statement before this court.

Given under my hand and the seal of the court this the 27th day of November 1941.

(Sd) T. D. Ramaya
Subordenate Judge

N.B:- The parties should apply as soon as possible for the return of all the exhibits which they may wish to preserve as the record will be liable to be destroyed after three years from this date.

4/61 Copd by W.Ray (True copy on 3 sheets)

N Janardhana
Superintendent
5/1/42

106 W 3

32949

22

7691

DIST. JUDGE'S COURT OF
SOUTH KANARA.

Application made	2 9	11 19	4 4
Stamp papers called for	2 —	1 —	4 8
Stamp papers delivered	3 —	1 —	4 2
Copy ready	5	1	4 2
Copy delivered		1	4 2

23

[G.W.P]

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying.	14/2	
When copied ..	14/2	
When examined...	14/2	
When signed ..	14/2	
When despatched.		

SUBJECT :— LA (South Kanara) - Mangalore TK + Town - Kasba Bazar (V) - T.S. 13/2 - widening the Kamad Sadashivarao Road - LAC nos 7+8 of 1939, Sub Court, S. Kanara - Enhancement of Compensation - Appeal

READ AGAIN ....., dated ..... 194....

" " ..... 194....

READ *ALSO* :—

P1 CF No. ..... From the Coll^r of S. Kanara, Re B3-8649/41 No. ....., dated 7.2.1942. Q

" ..... " ..... " ..... " ..... 194....

" ..... " ..... " ..... " ..... 194....

Order / Resolution Ms. / Rout. No. ....., dated Refg. I 685/42-1 d) ~~194~~ 14.2.42

The Coll^r's letter does not form the part of the record. The Coll^r is requested to submit (urgently) the connected Land Acquisition files & Mest records if any so as to enable the Board to understand the case clearly. He is also requested to submit a copy of the judgment in LAC nos 14 to 17 of 1937 of the Subordinate Judge, S. Kanara.

2. The Coll^r has not furnished the particulars required under BSO 95-1-(ii) [not to be] ~~and he has not also~~ submitted a copy of the Municipal Council's Resolution ~~He has yet to comply to these requirements~~. He is requested to see that such omissions do not recur.

14/2

14/2

To

1. The Coll^r of S. Kanara

C.F. 32

In reply, please quote number, date and short title.

OFFICE OF THE 9-MAR1942 MADRAS 9.10.18

R.D. 141

_____ DEPARTMENT.

*Received*_____ *Registered*_____

From (Name) M.Karamatullah, Esq., I.C.S.,

(Designation) Collector of South Kanara.

Post Box_____, (Station) Mangalore.

*Telegraphic Address*_____

To

The Secretary to the Board,
Land Revenue and Irrigation,
M a d r a s.

Roc. *No.*B3-8649-41 *dated* 26-2-42. 194—.

Sir,

Land Acquisition - (South Kanara) -Mangalore Taluk and Town -Casba Bazaar village - T.S.No. 13/2 - widening of Karnad Sadashiva Rao Road - L.A.C.Nos. 7 and 8 of 1939 -Sub-court, S.Kanara -enhancement of compensation -appeal.

Board's Ref.I-685-42-1 dated 14-2-42.

ENCLOSURES.....

.....

.....

SPARE COPIES.....

P23 CF

The records of R.Dis.Nos. 7558-38 (K) and 3992-39 (H) of my office and R.Dis.Nos. 5756-38 (S) and 2756-39 (R) of the Revenue Divisional Officer, Mangalore, relating to the L.A.Case referred to above are sent herewith. A copy of the Judgment in L.A.C.Nos. 14 to 17 of 1937 of the Sub-Judge South Kanara, was submitted to the Board of Revenue with my letter Ref.C.No. 8111-B3-41 dated 18-11-41 dealt with in Board's Proceedings Mis.No. 3220, dated 29-11-41. No copy of it is now available in my office.

P 1 CF (W)

2. The particulars required under B.S.O. 95 (1) (ii) are furnished below:

i. Date of Judgment and decree ... 27-11-41.

ii. Date of application for copies ... 29-11-41

iii. Date on which copies were ready for delivery to the Vakil. ... 2-2-42

iv. Date of receipt of the same by the Collector. ... 5-2-42

V. Date on which the time allowed for the appeal expires. ... 1-5-42

vi. Explanation for delay

A copy of the Municipal Council's resolution No.35, dated 17-12-41, not to appeal against the decision of the Sub-Judge, South Kanara, in this case is also enclosed.

P27 CF

for Collector.

Extract from the Proceedings of the Mangalore Municipal Council at its meeting held on 17th Decr. 41.

Resolution No. 35.

Read: Letter Roc. 8649-41-B3 dated the 8th December 1941 from the Collector of South Kanara enclosing a copy of letter Ref.No. A.1216-41 dated the 1st December 1941 from the Government Pleader in L.A.C.No. 16-38 on the file of Revenue Divisional Officer, (widening Karnad Sadashiva Rao Road) and requesting to be informed if the Council desires that an appeal should be filed and agrees to bear the charges of litigation and office note requesting sanction for the payment of enhanced compensation with interest.

The payment of enhanced compensation with interest is sanctioned. No appeal need be filed.

xx xx xx

Sd/- B. Venkat Rao Baliga,
Chairman, M.C.

(True copy)

For Collector.

27.2.42

29 [G.W.P]

Cp. 16

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	12/8/42	11/25 LKK
When copied ..		
When examined ..	17/3/42	PAM/RG
When signed	LKK 18/3/42	Secy of
When despatched.		

SUBJECT:— Suit (LA) - South Kanara Dt - Mangalore TK & Town - Kasba Bazar (V) - Town 13/2 Widening the road - LAC no 7 & 8 of 39, Sub Court, South Kanara - Adverse decision - Appeal - Unnecessary

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO*:—

P1 CF No. _____ From the Coll^r of S. Kanara Re. B3-8649/41 No. _____, dated 7.2.1942 } Q

P23 CF " _____ " Bd's Office J 685/42-1 " 14-2 1942

" _____ " Coll^r of S. Kanara Re. B3-8649/41 " 26-2 1942 }

~~Order~~ Resolution ~~Rout.~~ Ms. No. 699, dated 6-3-1942

Secretary to Govt. Mg. B.

The Board agrees with the Coll^r that no appeal need be

filed in this case.

To The Coll^r of South Kanara

with Encls (Coll^r's R.Dis 3992/39 dt 2/10
7555/38 dt 31.5.39
(Bangalore R.D.'s R.Dis 5756/38
dt 23.5.39
+ R.Dis 2756/39 dt 3.2.40)
by Regd post.

Asst Secy

M2
J.S
A.S(?)

N.Y. Appeal time expires on 30.4.42 excluding time taken for copies

Writ (L.A) - South Kanara Dt - Mangalore Tk + Tow Kasba & Bazar (V) Tsno 131 - Widening the road - LAC No 718 of 39, Sub Court, South Kanara - Adverse decision - Appeal

J 685/42

P1 CF — From the Coll^r of S. Kanara Rc No 3-8649/41 dt 7.2.42

To A.S.

P3 CF - para 3 — An extent of 10,332 sq. ft. with buildings thereon in Tsno 13/2 of Mangalore Town was acquired on behalf of the Municipality for

at P4 CF - para 6 — widening the road. The LAO awarded compensation at Rs 2830/- for the buildings +

& at p 5 CF - para 11 — at Rs 5000/- an acre for the site. The owner who was not satisfied with the LAO's award had the matter referred to the Sub Court, South Kanara.

B at p 5 CF - para 10 — 2. The Subordinate Judge, S. Kanara added only Rs 170/- to the value of the buildings fixed

D at p 6 CF - para 11 — by the LAO but raised the value of the site to Rs 8,000/- an acre with reference to a previous judgment of the same court in which the question of the valuation of the present plot came up for consideration.

P2 CF
P1 CF — 3. The Local Govt. Pleader and the Municipal Council are not in favour of filing an appeal. The Coll^r agrees in them. There are no grounds for

The Board may agree with the Coll^r that no A
appeal need be filed in the case.

The Collector has not furnished the particulars
required under ~~paragraph 9 of Circular~~ B.S.G. No. 95-1 (ii), ^ Bk No 70 - p 685.
and he has not also submitted a copy of the ——— and for the
Municipal Council's resolution, though he has stated
that it has resolved that no appeal need be filed B
against the decision of the Subordinate Judge. He may
be requested to see that such omissions do not
occur.

9/2/11

12/2

For order

12/2

A & B may be approved

12/2/42

J.S

M.S

Call for records & find Coll
report as to these as to be treated
He has not even attempted to argue
the facts & says Power is alone
to him

12.2.42

August 11.
12/2

A.S (9)

To A.S.

Draft submitted

12/2/42 for approval

12/2

M2
~~J.S~~
~~A-S(9)~~

3

[Appeal time expires on 1.5.42]

P 23 CF Issued as Board's Refa 9685/42-1 d/ 14.2.42
PP 25-26 CF from the Coll:r of South Kanara 9 1018/42

To A-S

Please see (the notes at H 1-2 N.7 and) the Board's Refa at p 23 CF. Even now the Coll:r of South Kanara has not discussed the pros & cons in his reply. He has sent his office file. For the full facts of the case please see H 7-21 CF of (H). The sketch of T.S.No. 13/2 is at p 5-CF of (K). A copy of the judgment in L.A.C. nos 14 to 17 of 1937

1 CF of (W) which was received with the Coll:r's Refa 8111/41-B3 d/ 18.11.41 has been sent to the G.P, Madras

P 3 CF ibid who was requested to oppose the appeal & prefer Cross-objections

2. As the Municipal Council on whose

P 27 CF behalf the land was acquired does not want to appeal against the decision of the Sub Judge, the Board may direct that no appeal need be filed in this case.

hp 7/3/42 9/3/42

hp. 5 & 6. CF The grounds for enhancing the value of the site are contained in para 11 of the Sub judge's order. Above may be approved

Joint Secy.
12 MAR 1942

9/3/42 9.3.42 J.S

12 noon 13/3 12/3 Drafts

Draft submitted

hp 14/3 hp 14/3/42
1-15 hrs. 12/3/42

B.P. No. Mis 699
Dated 13.3.42

Single Member
Two Members
Full Board.

	1-A A.D.S. & L.R.	Assistant Secretary			J.S. Secy.	M. M. M. 3 2 1
		L.R.	Irriga-tion.	Sep. Rev.	C.T	
1. Open file seen by		✓		✓		✓
2. Final draft seen by		✓				
3. New circulated to						
4. Initials.		13/3				

Secretary
Joint Secretary.

Passed for record.

~~A.S. (L.R.)~~
A.S. (Irrign) 20/3/42
A.S. (Sep. Rev.)
A.S. (C.T.)
A.D.S. & L.R.
P.A.

Note.- Entries not required to be scored out.